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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,561	10/25/2001	Kazuhiko Yamashita	19036-37906	8725

7590 03/24/2004

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EXAMINER

GIBSON, RANDY W

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,561

Applicant(s)

YAMASHITA ET AL.

Examiner

Randy W. Gibson

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed February 6, 2004 have been fully considered but they are not persuasive. The applicant states "for reasons of cost and complexity remote reprogramming of the device is not an obvious step beyond Nobutsugu and that therefore there is no motivation to combine Nobutsugu with Tomokazu"; however, applicant has not produced any evidence to support this argument. See *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997); and, *MPEP* §§ 716.01(c) & 2145(I). Furthermore, this argument is unpersuasive in light of the fact that downloading programs and upgrades to programs from Internet websites was well known to the general public prior to applicant's priority date; see column 1, line 31 to column 4, line 2 of the newly cited reference to Sampath et al. (US # 6,266,774), for example.

It is true that Tomokazu does not expressly disclose reprogramming a remote device via the Internet as the applicant has noted, but he does disclose reprogramming a remote computer via a wide area network (WAN); applicant has not explained why reprogramming a device remotely via a wide area network is less complex or less expensive than reprogramming a device remotely via the Internet (which itself consists of interconnected "smaller networks such as LANs and WANs, [such that] each network can access every other network" according to the express definition of "Internet" in the *Modern Dictionary of Electronics*, 7th Edition, Robert Graf, Ed., Butterworth-Heinemann, Woburn, MA, © 1999, p. 390); or for that matter, why it would not be an obvious next

step to reprogram a device remotely using the Internet in light of a reference that already discloses reprogramming a device remotely using a WAN.

It is also true that neither the reference to Nobutsugu or Tomokazu expressly teach using TCP/IP packet data protocol, but the definition of "Internet" in the *Modern Dictionary of Electronics* expressly states that the Internet uniformly uses "a single protocol family called TCP/IP" for data communication (so the use of TCP/IP packet data protocol is inherently disclosed by any reference that suggests using the Internet).

It would seem that these observations and statements of fact, *supra*, meet the *Dembiczak* requirement of particular factual findings demonstrating the suggestion to combine or modify the prior art references.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nobutsugu (U.S. # 4,658,919) in view of Tomokazu (JP 10-161880), and Sampath et al (US # 6,266,774). Nobutsugu shows a combinational weighing apparatus which uses a local area network (LAN) to transmit commands to and from a central CPU controller to individual CPU controllers. Nobutsugu discloses the claimed invention except for the ability to reprogram the controllers by a remote user. Tomokazu discloses that it is known to reprogram a computer connected to a LAN from a remote computer. It would

have been obvious to modify the device of Nobutsugu to allow it to be reprogrammed with updated software from a remote location such as the manufacturer, as suggested by Tomokazu, to allow updated control software to be installed in a machine on-site in the factory with-out the need for a costly service call by a technician from the manufacture's location.

Conclusion

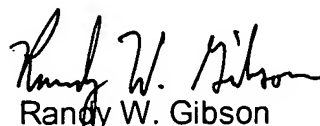
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 271-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Randy W. Gibson
Primary Examiner
Art Unit 2841